



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

February 3, 1989

Honorable Hugo Berlanga
Speaker Pro Tempore
Texas House of Representatives
P. O. Box 2910
Austin, Texas 78760

LO-89-10

Dear Representative Berlanga:

You ask about the scope of article 4477-6b, V.T.C.S., which regulates animal shelters. Specifically, you ask whether the statute applies to an animal shelter operated by Nueces County and located in Robstown, a city whose population is less than 75,000.

Article 4477-6b defines an animal shelter as "a facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals." V.T.C.S. art. 4477-6b, § 1(1). It imposes certain requirements on any "person" who operates an animal shelter, id., §§ 2(d), 2(e), 5, and it defines person as "an individual, corporation, or association and includes a political subdivision of the state but does not include veterinary medicine clinics or livestock commission facilities." Id., § 1(5).

Section 8 of article 4477-6b provides:

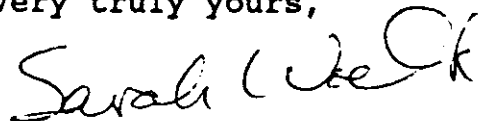
This Act does not apply in any county having a population of less than 75,000 or to any animal shelter within the city limits of a city having a population of less than 75,000, according to the last preceding federal census.

The shelter you ask about is located in and operated by a county with a population greater than 75,000. It is also, however, within the city limits of a city having a population of less than 75,000. Therefore, it comes within one of the exceptions set out in section 8. Although we

doubt the legislature intended to allow populous counties to avoid article 4477-6b by placing county-operated animal shelters in small cities in the county, the plain language of the statute allows populous counties to do just that.

In defining "person" the legislature did not make any distinction between public and private operators of animal shelters. Rather, it adopted a blanket exception for any animal shelter within the city limits of a city having a population of less than 75,000. See also id., § 4(a) (providing that the governing body of every county, city, town, or village in which an animal shelter is situated shall appoint an advisory committee to assist in compliance with article 4477-6b). Therefore, we must conclude that a facility in Robstown is not subject to article 4477-6b even though it is operated by Nueces County.

Very truly yours,



Sarah Woelk, Chief
Letter Opinion Section



Rick Gilpin, Chairman
Opinion Committee

APPROVED: OPINION COMMITTEE

SW/bc